

IN SENATE
OF
THE UNITED STATES,

JANUARY 21, 1818.

The committee on Naval Affairs, to whom have been referred the memorial of certain commissioned officers of the navy, under the rank of commanders, and also the memorial of certain officers of the marine corps attached to the Mediterranean squadron, have had the same under consideration, and

REPORT—

That your committee, duly impressed with the importance and delicacy of the subjects referred to them, and anxious to pursue that course which will best comport with the good of the public service and the high duties of the Senate, have given the several memorials all the consideration to which they are entitled.

The memorialists of the navy and marine corps, pray that the Senate would institute an inquiry into the proceedings of two naval courts martial, had in the Mediterranean, in the early part of the last year. They complain that those proceedings were such as to impair their confidence in the tribunals which have been established by the laws of the country for the protection of the rights of all who are connected with the naval establishment.

The memorialists of the marine corps pray, that their rights may be guarded by a special act of the legislature, "or that the rules and regulations for the better government of the navy be more strictly carried into execution."

Your committee sincerely regret, that any circumstances should have occurred, which have caused discontents among any portion of the officers of the United States' Navy. They have indulged the hope that the high reputation and renown which had been acquired by the naval establishment of this country in war, would be cherished and sedulously guarded in the season of peace, by every officer of the corps. It is only by a correct deportment; by a rigid discharge of duty, and a strict observance of the laws, that their well earned fame can be preserved. If these observations are correct, as it regards the individuals, officers of the navy, they most strongly apply to their tribunals. If naval courts martial, or courts of inquiry, have become so negligent, or so partial and unfaithful in the discharge of their duties, that those who should look to them for protection can no longer confide in them, but must resort, in the language of the me-

morialists, for safety "to those arms with which their country has entrusted them, or to that strength with which nature has endowed them," then, indeed, there is most serious cause of alarm. But your committee do not believe that this is the condition and character of your naval tribunals. They have heretofore been unimpeached. Under their administration the American navy has attained a character, both at home and abroad, of which the nation is justly proud. In the instances complained of, there may have been some ground for criticism; the proceedings may have been such as not to give entire satisfaction to all: but your committee are decidedly of the opinion, that whatever may be the character of the proceedings of the courts martial under consideration, they are beyond the control of the Senate. It has no power that can reach these cases. It has none other than legislative power, touching these matters, which in its nature cannot be retrospective. The corrective, in such cases, is confided by the institutions of the country to the Chief Magistrate, and to that department of the government would their complaints, perhaps, have been most properly addressed.

There is another view of the subject, to which the committee have not been inattentive: It has been considered a fit occasion to look into the laws governing the navy, in order to discover whether any defects exist, which may require legislative correction. Your committee have done so, and on examination, are of opinion, that no legislative proceedings are necessary at this time. The rules and regulations for the government of the navy now in force, are those under which it has grown up and acquired a reputation for discipline and efficiency, which your committee believe is not surpassed by any similar establishment. In this state of things, they are of opinion, that the causes of complaint, if any, are not in the laws, but in the administration of the laws. As it regards the marines, a description of force most necessary and useful, and which merits the fostering and protecting care of the government, the committee, on examination, find that they are subject to do duty afloat and on shore, as the executive, at his discretion, may direct; and that they are "governed by the same rules and articles of war, as are prescribed for the military establishment, and by the rules for the regulation of the navy, heretofore, or which shall be established by law, according to the nature of the service in which they shall be employed." The committee know no footing more proper on which to place the marines than that on which the law has already placed them. Were new rules now to be prescribed for their government and protection, it is believed that none other ought to be prescribed than those which now exist. Your committee therefore repeat, that in their opinion, the defect, if any, is not in the law, but in its execution. Viewing, then, the subjects referred to them in all their bearings, feeling the danger of affecting that discipline which is the vital principle of all military establishments; while they would frown with indignation on every act which savored of oppression, or of mal-administration, your committee respectfully submit the following resolution:

Resolved, That the committee on Naval Affairs be discharged from the further consideration of the memorial of the naval officers of the Mediterranean squadron, under the rank of commanders, and of the memorial of the officers of the marine corps, of date the 17th January, 1817.

The memorial of the commissioned officers (of the Mediterranean squadron,) under the rank of commanders, to the honorable the Senate of the United States, dated Port Mahon, January the 20th, 1817.

The undersigned, officers holding commissions in the navy of the United States, beg leave most respectfully to state to the honorable the Senate of the United States, that, having entered the service early in life, from motives of love of their country, respect for its naval character, and a sincere wish to become useful, they would willingly encounter dangers of any kind, or endure any hardships which the good of the service or the preservation of discipline may make necessary; that, together with a willingness to risk their lives and sacrifice their comforts, they have heretofore felt a firm reliance on the protection which the well digested laws of their country were intended, by the framers and enactors of them to afford to officers of every grade, against the wanton exercise of that power which all military establishments must place in the hands of the superior over the subaltern. Guarding with cautious jealousy their reputation and their rights against all assaults, which have not been designated by the law for the guardianship and arbitration of the most respectable of all tribunals, (a court martial,) they have witnessed with the deepest regret, the proceedings on a late transaction which has been brought to the decision of a court composed of the eldest officers of this squadron—of officers who from their rank in service, we had hoped would proved as jealous guardians of our rights as of their own. We beg leave, respectfully, to state the leading circumstances of this case. Captain John Heath commanding the detachment of marines on board of the frigate *Java*, under the command of Oliver H. Perry, esq. was so unfortunate as to incur the displeasure of his commander. The merits of the case between these two officers we do not presume to canvass; but we are imperiously called upon to notice the subsequent events. A court martial convened in the harbor of Mahon, on board the *Java*, on the 31st December, 1816, for the trial of captain Heath, on charges and specifications, of which the following is a copy.

Charge 1st. Disrespectful, insolent, and contemptuous conduct to me his superior officer. Specification 1st. That he did on or about the 22d of July, 1816, on board of the United States' frigate *Java* then standing into the Bay of Naples, on being asked by me, "why a certain marine was suffered to appear on [deck in so filthy and dirty a dress?" reply to me in an insolent, disrespectful, and contemptuous manner. Specification 2d. That he did late in the evening of the 18th September, 1816, on board the United States' frigate *Java*, then at anchor in the harbor of Messina, cause a letter written by himself and couched in language highly improper to be used towards his commanding officer, to be left on my table in the cabin of

said ship. Specification 3d. That he did when sent for into the cabin, on being asked "why he took such a time to write me a letter of that kind," assume a deportment towards me highly provoking and disrespectful. The aforesaid charge and specifications being in violation of a part of the 15th article, and a part of the 13th article of the rules and regulations for the better government of the navy of the United States.

Charge 2d. Neglect of duty and unofficer like conduct. Specification 1st. That on or about the evening of the 16th September, 1816, on board the United States' ship Java, then at anchor in the harbor of Messina, he, the said captain John Heath did, on two marines jumping overboard to swim from the ship, neglect to come on deck, although called and informed of this circumstance, alleging as a reason therefor the suterfuge of his being sick. Specification 2d. That he did when ordered by me, at said time and place, to come on deck and muster the marines, execute that duty in a careless and indifferent manner; and when the marines were mustered, did neglect to report to me until called and directed so to do. Specification 3d. That he did neglect on the desertion of said marines from the ship, to take those immediate steps for their recovery that became him as commanding officer of the detachment to which they belonged, and were required by the urgency of the case. This charge and specification being in violation of a part of the 20th article, and the 28th article of the rules and regulations for the better government of the navy of the United States.

Charge 3d. Disobedience of orders. Specification. That he did at the time and place referred to, in the 3d specification of 1st charge, though repeatedly ordered to be silent, continue to speak, although warned of the consequences, and in the same indecorous and contemptuous manner as is therein alleged, thereby violating a part of the 14th article of the rules and regulations for the better government of the navy of the United States,

(Signed)

O. H. PERRY.

United States' ship Java,

Algiers Bay, 14th October, 1816.

Of these charges and specifications it will be necessary to observe only, that the offence on which the greatest stress is laid, was committed as the specification states, on the 22d July, 1816; that captain Heath was neither arrested, suspended, nor warned that notice would be taken of this offence; that on the 16th September, 1816, captain Heath is again supposed by captain Perry, to commit an offence, for which captain Perry suspends him from the exercise of the duties of his office; that in the interval between the commission of these two offences, a general court martial convenes in the Bay of Naples, of which court capt. Perry is president, and captain Heath a member; that

after captain Heath had been suspended from duty two days, he addresses a note to captain Perry, of which the following is a copy.

*United States' frigate Java,
Messina, September 18, 1816.*

SIR,

On the evening of the 16th instant, I was ordered below by you from the quarter deck of this ship, with these words, or to that effect, "I have no farther use for your services on board this ship." I have waited until this moment to know, why I have been thus treated; and being ignorant of the causes, request my arrest and charges.

Very respectfully,
Your obedient servant,

(Signed)

JOHN HEATH,
Captain Marines.

The language of this note, captain Perry considered disrespectful, and summoned captain Heath into his cabin. Willingly would your memorialists draw a veil over the transaction, which then and there took place; most willingly would they bury in oblivion a transaction so disgraceful to the character of an American officer. But justice to themselves forbids it. It appears by the statement of captain Heath and the acknowledgement of captain Perry, that, after some conversation had passed, captain Perry, from (as he says) "a disposition to chastise insolence on the spot," gave to captain Heath a blow, and after having committed this outrage on his person, with much abusive language, ordered him to be confined to his room, and a centinel placed over him; a measure which hitherto has been considered justifiable in extreme cases only. A little reflection convinced captain Perry of the impropriety of his conduct, and alarmed him for its consequences; he accordingly, through the medium of another post captain and the first lieutenant of the Java, made an overture to captain Heath of reconciliation, and through them tendered an apology, but insisted on terms of his own dictating. This, captain Heath, having a due regard for his own reputation, for the commission which he has the honor to hold, and for the respectability of his brother officers of the same rank, positively refused to accept, and in his turn preferred charges against captain Perry. A court martial convened, and as we have been unofficially informed, for the trial of both; but captain Perry remained in the exercise of the functions of his office, while captain Heath was in close confinement. Of the proceedings of this court your memorialists know but little; they have ere this, they presume, been laid before the honorable Secretary of the Navy. But they know that captain Perry has sailed for the United States, in command of the Java, with the sanction of a court martial, and that of the commander in chief to support his conduct.

The undersigned have now no guarantee for the safety of their persons, but the use of those arms which the laws of their country have placed in their hands, and that personal strength with which nature has blessed them. To those means they must resort, and on them in future depend, unless the honorable Senate, to whom they look with filial confidence as the guardians of their rights, will by a timely interference save them from the disagreeable alternative of relinquishing a profession to which they are enthusiastically attached, or becoming in every instance the defenders, not only of their characters, but of their persons. Placed at a distance from their country and without the immediate influence of its civil laws, your memorialists rely with confidence on the decision of the high tribunal to which they now solemnly appeal. Your memorialists trust it will not engross too much of the valuable time of the Senate, to institute an examination into the proceedings of this court in these two instances. They beg leave also to state, that a case occurred at Naples in August last, between captain T. O. Creighton, and midshipman Marston, of the Washington, the decision on which they also consider as tending to destroy the conviction which every officer ought to feel, while in the execution of the duties of his office, that the strong arm of the law is extended over him, equally for his protection during good conduct, and for his punishment when he deviates from its rules. If your memorialists have erred in making this appeal, they hope it will be attributed rather to an exuberance than a deficiency of a good feeling, and they trust that they will ever be found ready to obey the call and support the cause of their country in any contest, however unpromising to themselves as individuals.

And your memorialists, as in duty bound will ever pray.

Thos. Jp. Catesby Jones, Lieutenant Navy.
W. B. Shubrick, Lieutenant Navy.
R. T. Auchmuty, Lieutenant Marine Corps.
Christopher Ford, Lieutenant Marine Corps.
George Pearce, Lieutenant Navy.
Beverley Kennon, Lieutenant Navy.
Samuel L. Breese, Lieutenant Navy.
Thomas Nichols, Sailing Master.
Robert F. Stockton, Lieutenant Navy.
Francis B. White, Lieutenant Marines.
Joseph L. Kuhn, Lieutenant Marines.
W. H. Watson, Lieutenant Navy.
Wm. H. Cocke, Lieutenant Navy.
H. B. Breckenridge, Captain Marine Corps.
B. Washington, Surgeon.
Geo. B. English, Lieutenant Marine Corps.
James Armstrong, Lieutenant U. S. Navy.
George Beale, Purser.
C. S. McCauley, Lieutenant U. S. Navy.
Hyde Ray, Surgeon.

Chas. T. Stallings, Lieutenant Navy.
E. W. Turner, Purser.
Joseph Cassin, Lieutenant Navy.
Gustavus W. Spooner, Lieutenant Navy.
Robert S. Kearney, Surgeon.
Wm. Hall, Captain Marine Corps.
John Harris, Lieutenant Marines.
Henry Olcott, Lieutenant Marines.
N. Webster, Lieutenant U. S. Navy.
S. H. Stringham, Lieutenant U. S. Navy.
W. K. Latimer, Lieutenant Navy.
L. Roupeaug, Lieutenant Navy.
Alex. M. Montgomery, acting Surgeon Navy.
Robert Field, Lieutenant Navy.
N. L. Montgomery, Lieutenant Navy.
M. D. Nicholson, Lieutenant Navy.
W. Laughton, Lieutenant Navy.
Jno. Cadle, acting Surgeon Navy.
Jno. W. Peavo, acting Surgeon Navy.
M. C. Attwood, Purser U. S. Navy.
J. L. Morris, Lieutenant Navy.

Memorial of the Officers of the U. States marine corps.

The officers of the United States marine corps, in the Mediterranean, present the following memorial to the Hon. Senate and House of Representatives of the United States, and pray that their situation on board ship, and the grievances herein complained of, may claim their serious attention.

The want of established rules and regulations for the marine corps, when stationed on board ship, and this difference of discipline in different vessels, have always been productive of serious ills, and have too frequently occasioned unavoidable and unhappy disturbances. The undersigned, therefore do earnestly intreat, that rules and regulations be established by an act of Congress, wherein the duties of marine officers, when afloat may be clearly and distinctly defined and rights and privileges protected.

The undersigned regrets the necessity under which they conceive themselves bound by their duty to the service and themselves, of intreating the Hon. Senate and House of Representatives, as the guardians and protectors of their rights, to examine the decision of a court martial, held at Mahon, on captain Oliver H. Perry, of the navy, under the charges of outraging the rights, feelings, and person of the commanding officer of marines, of the United States' Java, and pray that the protection of their rights and persons be guaranteed by some special act of Congress; or that the rules and regulations for

the better government of the navy be more strictly carried into execution.

John Hall, C. M. M.

H. B. Breckenridge, capt. marines.

Wm. Hall, capt. marines.

Jo. L. Kuhn, lieut. U. S. marines.

Henry Olcott, 1st lieutenant marines.

Francis B. White, 1st lieutenant marines.

Jn. Harris, 1st lieut. marines.

R. T. Auchmuty, 2d lieut. marines.

Christopher Ford, lieut. marines.

Port Mahon, January 17, 1817.

United States Ship Washington,

Port Mahon, 4th May, 1817.

SIR,

I have the honor to transmit herewith an attested copy of a letter written to me by the captains and commanders of the squadron.

I fully concur with those gentlemen in opinion, and shall believe it to be my duty to comply with their request so far as to permit the officers complained of to return to the United States, as soon as it can be done without injury to the public service.

I have the honor to be,

Very respectfully, sir,

Your od't humble servant,

I. CHAUNCEY.

To the honorable Benj. W. Crowninshield,

Secretary of the Navy, Washington.

Port Mahon, 4th May, 1817.

SIR,

We, the undersigned captains and commanders serving in the squadron under your orders, have heard with deep regret that many of the lieutenants and other commissioned officers belonging to the vessels under our respective commands, have forwarded to the Hon. the Senate of the United States, a memorial which in our opinion is

calculated to excite disaffection and insubordination in the navy, and bring into contempt a service heretofore distinguished for its reputation, order, and good government.

The undersigned wish to be distinctly understood, that it is not against petitioning the legislature for a redress of real wrongs, that we now protest, but against the manner, time, and object of the memorialists, which if truly represented to us, is as follows:—They complain that they have been oppressed, and require that the 30th article of an act for the better government of the navy, should be revised and so amended as to designate particularly the punishment of offenders, and it is believed, that they even go so far as to threaten that should their imaginary grievance not be redressed, they will resort to their arms for protection. It is also understood that the memorialists have presumed to reflect on the members of two courts martial, composed of officers of long standing in the navy; that their meetings have been held with apparent secrecy, and the memorial studiously withheld from their commanders who would readily sanction any measure having for its object the good of the service. It cannot be denied that it is the bounden duty of officers more especially when on a foreign station, to cultivate towards each other the most perfect harmony and good will, but it is the opinion of the undersigned, that the conduct of the memorialists is calculated to have a contrary effect. The undersigned are therefore impelled by a sacred duty we owe our country and ourselves, to request that you will be pleased to remove all those officers from under our respective commands, as soon as the public service will admit of the same, as we cannot but consider the signers of the memorial as having forfeited all claims to our confidence, and their example as endangering the vessels entrusted to our charge.

We have the honor to be,

Very respectfully, sir,

Your obedient servants,

(Signed)

WM. M. CRANE,
JN. ORDE CREIGHTON,
GEO. W. RODGERS,
THOS. GAMBLE,
J. I. NICHOLSON,
EDM. P. KENNEDY.

A true copy of the original on file,

Attest,

J. WATSON, Com. Clerk,

United States' Ship Washington,

Port Mahon, 5th May, 1817.

*To Isaac Chauncey, Esq. commodore
and commander in chief of the na-
val forces of the United States, in
the Mediterranean, &c.*